IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8504 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SUPERINTENDING ENGINEER

Versus

DAHYABHAI RANCHHODBHAI PARMAR

Appearance:

MR SP HASURKAR for Petitioner No. 1

MR Deepak Davqe for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 13/08/2001

ORAL JUDGEMENT

The present petition is filed by the Gujarat Electricity Board through its Superintending Engineer, Hydro Power Station, Ukai, against the judgement and award in Reference (LRS) No. 286 of 1986 dated 13.3.2000.

2. After taking into consideration the contentions of both the sides, the learned Judge of the Labour Court, Surat came to the conclusion that the petitioner Board is not able to prove before the Court that the respondent workman had given resignation in writing. The Labour Court also considered that there is nothing on record to show that the resignation of the respondent workman was accepted by the Board. The Labour Court also considered withdrawal of CPF amount and came to the conclusion that such withdrawal can be for any exigencies on account of the respondent workman having recovered from illness. The Labour Court has also taken into consideration the letter produced at exhibit 26 and two different dates which have come on record in a letter at exhibit 26 and another letter at exhibit 25.

3. Taking into consideration the fact that the Labour Court has appreciated the factual aspects of the matter, the petition does not warrant any interference at the hands of this Court. Further, learned advocate, Mr.Deepak Dave on instructions from respondent workman, Dahyabhai Ranchhodbhai Parmar, who is present before the Court submitted that in spite of the award dated 13.3.2000 in his favour the petitioner Board has not complied with the same. The respondent workman is in dire need of employment so that he starts getting his livelihood. Mr.Dave submitted that the workman is ready to concede to the extent of back wages which he is entitled from the date of award, i.e. 13.3.2000 till the date he is reinstated in compliance of the award. Mr.Dave submitted that on this concession being made by the respondent workman the respondent Board may be directed to comply with the award and reinstate the respondent workman within some reasonable time.

4. In view of the fact that the Board is not able to establish that the work which was performed by the respondent workman does not exist, the petition filed by the Board is rejected.

5. Taking into consideration the reasonable offer made by Mr.Deepak Dave, learned advocate on instructions from his client, Mr.Dahyabhai Ranchhodbhai Parmar, the petitioner Board is directed to comply with the award of reinstatement on or before 10.9.2001. However, it is clarified that the respondent workman will not be entitled for wages under the award from the date of the award, i.e. 13.3.2000 till the date of reinstatement. The appointment will be a fresh appointment as the Labour Court itself has not granted the benefit of continuity of

service.

6. The petition stands disposed of accordingly. Rule is discharged with no order as to costs.

(Ravi R. Tripathi, J.)

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